

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CORDELLA ANGELINE O’GILVIE,

Plaintiff,

vs.

VFS CANADA INC, VOLVO GROUP NORTH
AMERICA, LLC, ANDREY N. ZLINSKIY
ENTERPRISE HOLDINGS, INC., ENTERPRISE
RENT-A-CAR CANADA LTD and RANDOLPH A.
HENRY,

Defendants.

NOTICE OF REMOVAL

Case No.

Removed from:
Supreme Court of Kings County
Kings County
Index No. 510428/2020

TO: The Honorable Judges of the United States District Court for the Eastern District of New York:

Removing parties, VFS CANADA INC. and ANDREY N. ZLINSKIY, by their undersigned attorney, respectfully shows this Court:

1. The removing parties are defendants in the above-entitled action.
2. On June 18, 2020, the above-entitled action was commenced against the removing parties in Kings County Supreme Court, and is now pending therein. A copy of the filed Summons and Complaint is attached hereto as **“Exhibit A”**.
3. No further proceedings have been had herein in Kings County Supreme Court.
4. On or about July 27, 2020, the removing parties VFS CANADA INC. and ANDREY N. ZLINSKIY were all served with a Summons and Complaint, through the New York State Office of the Secretary of State. A copy of the respective Affidavits of Service pertaining to the removing parties is attached hereto as **“Exhibit B”**. Therefore, this Notice of

Removal is timely under 28 U.S.C. § 1446(b) because it is filed within thirty (30) days of service.

5. Venue lies in the United States District Court for the Eastern District of New York pursuant to 28 U.S.C. § 1441(b)(1) based upon diversity of citizenship amongst the parties together with the fact that the amount in controversy pursuant 28 U.S.C. § 1332(a) is satisfied.

6. Pursuant to 28 U.S.C. § 1446(b) and Local Rule 81.1, notice of removal shall set forth (1) in the case of each individual named as a party, that party's residence and domicile and any state or other jurisdiction of which that party is a citizen for purposes of 28 U.S.C. § 1332; (2) in the case of each party that is a partnership, limited liability partnership, limited liability company, or other unincorporated association, like information for all of its partners or members, as well as the state or other jurisdiction of its formation; (3) in the case of each party that is a corporation, its state or other jurisdiction of incorporation, principal place of business, and any state or other jurisdiction of which that party is a citizen for purposes of 28 U.S.C. § 1332; (4) in the case of an assigned claim, corresponding information for each original owner of the claim and for each assignee; and (5) the date on which each party that has been served was served.

7. In accordance with 28 U.S.C. § 1446(b), a copy of this Notice of Removal is being served on Plaintiff's counsel, and a copy will be promptly filed in the State Action.

8. The above-entitled action is a civil action for monetary damages alleging personal injuries sustained by plaintiff on or about January 2, 2018, at or near Interstate "90" at mile point marker 417.7 in the Town of Cheektowaga, County of Erie, and State of New York.

9. The Summons and Complaint (**Exhibit "A"**), alleges Plaintiff is a citizen of the State of New York residing at 372 E 35th Street, Brooklyn, New York 11203.

10. Defendant ANDREY N. ZLYNSKIY is and was a citizen of the Town of Brampton, in the Province of Ontario, Canada.

11. Defendant VFS CANADA INC., is and was a foreign business corporation organized and existing under the laws of Canada with its principal executive offices located at 238 Wellington Street E 3rd Floor, in the Town of Aurora, Ontario, Canada.

12. Upon information and belief, although the Complaint does not contain a specific demand for damages, upon information and belief, the amount in controversy, exclusive of interest and costs, is in excess of Seventy-Five Thousand Dollars (\$75,000), placing this matter within the jurisdictional limits of this Court.

13. The above-entitled action is between citizens of different states, in that at the time of commencement of this action in New York, and since that time, upon information and belief, Plaintiff was and still is a New York resident while Defendant ANDREY N. ZLYNSKIY is a resident of the Province of Ontario, Canada, Defendant VFS CANADA INC. was a foreign corporations organized to conduct business in the Province of Ontario, Canada.

14. This Court therefore has proper jurisdiction of the above-entitled action pursuant to 28 USC §1332, and since Defendants are not a citizen or resident of the State of New York, wherein the above-entitled action is pending, removal of the action to this Court is proper pursuant to 28 USC §1441(b).

15. This Notice is filed with the Court within 30 days after service on the removing party of the Summons and Complaint in the above-entitled action.

WHEREFORE, removing party prays that the above-entitled action be removed from the Kings County Supreme Court to the United States District Court for the Eastern District of New York.

Dated: Buffalo, New York
August 21, 2020

/s/ Robert E. Scott, Esq.
Robert E. Scott, Esq.
Gibson, McAskill & Crosby, LLP
Attorneys for Defendants
VFS CANADA INC,
ANDREY N. ZLINSKIY
69 Delaware Avenue, Suite 900
Buffalo, New York 14202
Telephone: (716) 856-4200

TO: GREGORY SPEKTOR AND ASSOCIATES P.C.
Mikhail Ilyaich, Esq., of Counsel
Attorneys for Plaintiff
One Cross Island Plaza, Suite 203C
Rosedale, New York 11422
Telephone: (718) 528-5272